

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.4653 OF 2005**

Shri.Kumar Shridhar Harshey (Lt.Col)..Petitioner

versus

1.The Business Coop Bank Ltd & ors..Respondents

Mr.Ramesh Dube-Patil, Advocate i/b Ajay Misar & Co
for Petitioner

Mr.M.S.Karnik, Advocate for Respondent no.1

Mr.R.D.Soni, Advocate for Respondent nos. 2 to 5.

CORAM : J.N.PATEL,J

DATED : 25th July, 2006

ORAL ORDER :

1. Heard.

2. The petitioner challenges the execution proceedings initiated by the respondent-bank on the ground that the respondent-bank is executing the award contrary to the order passed by the Co-operative Court where it has been specifically

mentioned " While recovering the decretal amount from opponents, it should be first recovered from the borrowers by all measures and if not recovered then from guarantors. "

3. In so far as clause no.(4) of the order is concerned, there is no quarrel over the issue. The bone of contention is clause (5) of the order which is the Micro-Light AirCraft which has been admittedly hypothecated to the bank and the bank has proceeded to attach it and at this stage the petitioner-judgment debtor who is the guarantor in the case has approached this Court. This Court finds no merit in the contention of the petitioner. The respondent-bank can very well attach and dispose of by auction sale or whatever method which is permissible to them under the law the Micro-Light AirCraft which was hypothecated to them. Therefore, the petition stands dismissed.

(J.N.Patel, J)